CONGRESSIONAL REFORMS TO REGAIN CONTROL OVER THE FEDERAL BUDGET

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CHAPTER I

INTRODUCTION

Purpose of the Study

The primary purpose of this study is to determine how successful congressional efforts have been toward regaining control over the federal budget. Congressional control over fiscal matters can be divided into two broad categories: control over the internal processes of Congress which include committee assignments, the struggles for power, influence and control among the various committees and subcommittees, and the struggle between the Senate and the House of Representatives. The second category deals with the struggle between the Legislative and the Executive Branches of government to exercise control over fiscal policies. It is this second category of struggle that this study will identify, describe and analyze. This study will trace the development of the congressional role in the budgetary process and the subsequent transfer of control to the Executive Branch. Special emphasis will be placed on the reform legislation pending before the 92nd Congress in order to capture the current mood of the Congress and the nation as a whole.

This study will not analyze the criticisms that have been or are now directed at the organization and procedures of Congress. It is not the purpose of this paper to evaluate such criticisms or levy new criticisms against the congressional system of organization, committee structure, leadership hierachy, or any of the other facets of the Legislative Branch.

The sources of information were both primary and secondary. To gain insight into the reform legislation currently before the 92nd Congress, personal interviews were held with selected officials and staff personnel directly involved with the legislation. Additionally, copies of printed hearings and committee reports were utilized as sources of information.

In analyzing the effectiveness of the reforms attempted by the Congress, an attempt was made to view the results as objectively as possible. No value judgments were made regarding whether or not the reforms were necessary; rather, the amount of control that Congress recaptured or the promise of increased influence and power was the basis for evaluating the reforms.

Organization of the Study

In order to provide the background necessary to understand the changing roles of the Legislative and Executive Branches of government, Chapter II of this study will trace the development of the congressional budgetary role and examine the factors that prompted the transfer of influence and control from the Legislative to the Executive Branch. The congressional authority provided by the Constitution of the United States and the internal organization of Congress will be examined and related to the relationship of the two branches as it concerns the budgetary process.

Chapter III will identify and discuss the significant reform measures that have been implemented from 1921 through 1950. These reforms serve to clarify the moods of the Congress during this span of

nearly thirty years. Some proved to be more effective than others, and the reasons underlying their success or lack of success will be analyzed.

Chapter IV deals with the reform measures since 1950, including actions pending before the Ninety-Second Congress. These measures will be examined in some detail in an effort to gain clearer insight into the nature of the reforms and thus the current mood of the Congress. Such analysis can be the initial step toward forecasting future congressional reforms and perhaps provide insight concerning future relationships between the Legislative and Executive Branches regarding budgetary policy and the control of national objectives and priorities.

Chapter V summarizes the effectiveness of the reforms attempted and examines the potential effectiveness of the legislation pending before the Ninety-Second Congress.

Chapter VI summarizes this study and comments on the prospects for meaingful budgetary reform.

Background

Fiscal control has developed into a technique of tremendous influence. The whole budget system is essentially a device constructed for administrative supervision, and the preparation and execution of the budget requires considerable centralization of authority in the Executive Branch. Although Congress participates in the budget making process, its role is essentially that of critic and facilitator rather than of generator and leader. Since the turn of the century, the role of Congress has steadilly become less and less one of initiating policy alternatives

and more and more that of modifying, negating, or legitimating proposals that originate in the Executive Branch.

Congress has attempted various budgetary reform measures, and proposals for added control continue to be offered and considered. Some have considerable merit while other are worthless and mischievous. President Nixon has submitted his FY 72 budget in which he seeks programs totaling 229 billion dollars. It is obvious that the annual budget of today represents significant changes from an earlier period in the method of making policy decisions. Today it is an enormous undertaking which provides funds for carrying out almost all government policy. Congress, on the other hand, is accustomed to dealing with limited policy by small committee groups, and a budget that is so comprehensive and exhaustive both in stating broad national policy and in assigning relative priorities among the proposed programs is certain to give the Congressman a feeling of frustration and helplessness. It is this situation that prompts the many proposals for budgetary reform.

Budgetary reform is said to accomplish three major purposes:[1]

1. To strengthen congressional control over the totality of spending.
2. To strengthen congressional control over policy decisions.
3. To give Congress further information on past spending.

These purposes are so interrelated that excessive emphasis on one may diminish the emphasis on the others. In examining the reforms during this study, the threefold objectives will be of paramount interest.

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[1]Roland Young, The American Congress, (New York: Harper and Brothers, 1958), p. 241.

Congress, in attempting to regain budgetary control, seeks added responsibility in developing the budget initially and desires that the President should confer with its leaders on budgetary questions in the same fashion that he consults with them on questions on legislative policy. The dogma has been developed that the President should not deal with troublesome politicians in framing the budget, but submit to congressional review and criticisms of his proposals.

The control by the President has been greatly increased, but the congressional role has never been fully developed. The effective authority of Congress is certainly decreased when major policy decisions are made by the President or other units of the bureaucracy. The equilibrium of influence between Congress and the President is constantly fluctuating and the fulcrum of authority appears to have shifted to the President. This study undertakes the analysis of the efforts of Congress to cause this fulcrum of authority to be returned to the Congress.

CHAPTER II

THE DEVELOPMENT OF THE CONGRESSIONAL BUDGETARY ROLE

Congress occupies a strategic position in the budgetary process and derives its basic authority to raise revenues and expend public monies directly from the Constitution of the United States. Article I, Section 1, of the Constitution grants all legislative powers to the Congress and provides for the establishment of the Senate and the House of Representatives. Article I, Section 8, empowers Congress to make all laws considered necessary in order to carry out their responsibilities. It further provides specific power to lay and collect taxes; to borrow money, and to coin money. Article I, Section 9, provides that "no money shall be drawn from the Treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time."

This constitutional base of authority not only served to establish the powers of Congress in the areas of legislation, raising revenue, and expending public monies, but effectively gave Congress limited control over the Executive Branch through its authority to determine the level of expenditures.

It is important to recognize also that the Constitution provided for the separation of powers of the Legislative and Executive Branches, yet provided each with the power of check and balance over the other.

> The writers of the Constitution of the United States established a separation of powers by providing for a Congress and a President on the same legal plane, then blurred the separation by giving each certain rights to check or influence the activities of the other.[1]

From the earliest days of the republic, Congress began to exercise its power and influence provided by the Constitution and was immediately confronted with the conflicts with the Executive Branch. Congress was secure in its role as possessor of control over fiscal matters, but in the early days of the young nation, the congressional involvement in fiscal matters was minimized.

Alexander Hamilton, the first Secretary of the Treasury, was successful in gaining the confidence of the Congress and stressed the desirability of "executive direction" in the formulation of fiscal policies. He was given wide authority in the preparation and reporting estimates of public revenue and expenditures. With the Federalists in control of both branches of government, Hamilton was successful in recommending that appropriations be granted under a few generalized headings with few, if any, legislative restrictions. The House Committee on Ways and Means, established in 1789 to consider and report on financial matters, was discharged in that same year from such further considerations. Their functions had been transferred to the Secretary of the Treasury.

The powerful role that Hamilton had engineered for himself continued until 1795. During that period, Congress was beginning to mount pressure for a stronger role in government expenditures and, through

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[1]Joseph P. Harris, Congressional Control of Administration, (Washington, D. C.: The Brookings Institution, 1964), pp. 3-4.

the leadership of Albert Gallatin, began to voice the need to recapture those constitutional responsibilities relinquished to the Executive Branch.

There arose within the Congress a theory of "legislative restraint", referring to legislative controls to be exercised over the Executive Branch through the imposition of specific appropriations. The mood of the nation was prime for such a shift of control because the Hamiltonian theory of "executive descretion" had gained wide political opposition throughout the country. In 1795 Hamilton resigned as Secretary of the Treasury and the Republicans had gained a majority in the House of Representatives. Again, under the leadership of Gallatin, the Ways and Means Committee was re-established and began to recapture congressional control over appropriations and expenditures.

In 1801, Jefferson became President and Gallatin became his Secretary of Treasury. The theory of legislative restraint was accentuated to the point of complete congressional dominance. The executive was under the complete control of Congress and could depart from specified appropriations only under conditions of national emergency. In 1802, the Ways and Means Committee was made a standing committee, and the Congress continued to exercise oversight and control over the Executive Branch by enacting rigid, detailed legislation. By 1860, the Ways and Means Committee was the most powerful and influencial committee in the House of Representatives.

By 1865, the Ways and Means Committee was so overburdened with the increased responsibilities brought on by the Civil War that a new House Committee on Appropriations was formed. Under the leadership of Garfield and Randall, this new committee became the real source of power

and control in the House. Members assigned to this committee were completely dedicated to their responsibility for guarding the Treasury and reducing government expenditures.

By 1880, the House appropriations Committee was so overloaded with the appropriations process that it began to be stripped of jurisdiction over certain appropriation bills. This marked the beginning of what was to become an almost complete congressional loss of control over fiscal matters. The House voted to grant budget review authority to the substantive committees which gave them jurisdiction over those programs. Federal expenditures increased rapidly in the absence of a coordinated review of the overall expenditures authorized by the Congress.

A major factor contributing to the erosion of the congressional power and control was the President's power to transfer appropriations from one program to another during periods of congressional recess. Also, the President had this authority of transfer during war and during periods of preparation for war. Further, the practice of deficiency spending became wide spread among the executive agencies and departments. The more rigid and specific the appropriation, the greater the practice of deficiency spending became. Congressional action in 1874 effectively removed all legal authority for the executive departments to transfer appropriations, and the Anti-Deficiency Act of 1906 provided for the apportionment of appropriations throughout the fiscal year. Under the Act, appropriations were to be apportioned to the agency or department head in such a manner to prevent deficiency spending.

During World War I, Congress relinquished its control and permitted extended executive discretion. Congress approved general

appropriations, and deficiency spending was freely permitted. At the close of the war, Congress attempted to return to specific appropriations and shut off deficiency spending but soon recognized the futility of their efforts.

In the face of continued frustration, Congress sought new solutions to the problems involving executive agency and department transfers of funds and deficiency spending. In 1919, the House Select Committee was established to consider the following approach to the problems of fiscal control:

1. Fixing executive responsibility for the budgetary estimates submitted to Congress.

2. Creating a governmental instrument for the audit of executive accounts, primarily responsible to Congress.

3. Internal consolidation of the congressional budget system.

The results of this study were incorporated into the first significant budgetary reform measure, the Budget and Accounting Act of 1921. The details of this Act will be discussed in Chapter III of this study, and it is sufficient at this point only to mention that the mood of the nation was receptive to such reform, because there was national pressure to reduce expenditures and taxes and to put the business of government on a "business basis". The Budget and Accounting Act centralized the responsibility for budget submission in the Executive Branch and created the Bureau of the Budget to assist the President in the preparation of the budget. To offset this concentration of Executive power and control, the Congress provided for the creation of an "agency"

of its own, the General Accounting Office. The purpose of the General Accounting Office was to perform accounting and auditing functions over the Executive Branch in order that Congress might accurately review executive performance.

The General Accounting Office did not prove to be the equalizer that Congress foresaw, and the Budget and Accounting Act of 1921 marked a decisive shift in budgetary control from the Legislative to the Executive Branch of government.

The need for additional budgetary reform did not peak again until after World War II. In 1945, the Joint Committee on the Reorganization of Congress was established under the leadership of Senator Robert LaFollette, Jr., and Representative Mike Monroney. The studies and recommendations of the joint committee resulted in the Legislative Reorganization Act of 1946. The notable budgetary reform aspect of this Act was the establishment of the Legislative Budget. In a move to regain budgetary control from the Executive Branch, Congress proposed to establish a ceiling on the amount of expenditures based on considerations of the President's recommendations. After considering all anticipated receipts and all estimated expenditures, it was to recommend to the Congress the maximum amount to be appropriated for expenditure in the next fiscal year.

The Legislative Budget was never actually implemented, and in 1949 Senator MacKellar sponsored a resolution to remove the provisions for a Legislative Budget from the Act of 1946.

A second reform measure was legislated in 1946 which plays an important part in the development of the congressional role in matters of fiscal concern, and this was the Employment Act of 1946. The provisions

of that Act that concern this particular study are those establishing the President's Council of Economic Advisors and Congress' Joint Economic Committee. The Council of Economic Advisors was established to assist the President in the preparation of his annual Economic Report, a report required by the Act, and the Joint Economic Committee was created to offset the budgetary advantage the Council of Economic Advisors promised for the Executive Branch. The Joint Economic Committee was to review the Economic Report of the President and submit a separate Joint Economic Report to the Congress.

This exchange of "council" for "committee" resulted in a further shift of budgetary control to the Executive Branch, but the Joint Economic Committee offers promise of added strength to the Congress.

Continuing to recognize the need for further congressional reform to regain budgetary control, Senator McClellan sponsored the establishment of a Joint Committee on the Budget that was reported out by the Senate Expenditures Committee in 1952. This was a powerful measure that would provide a congressional committee broad powers over the executive departments and essentially restore budgetary control in the Congress.

The measure was not accepted by the House of Representatives primarily due to the strong opposition of Representative Cannon, powerful Speaker of the House, and the bill was killed. The importance of Senator McClellan's bill was that it emphasized the realization of many, if not most, congressmen that budgetary control was centralized in the Executive Branch, and the internal struggles of Congress itself were the main deterrent to restoration of congressional control.

While the Senate was attempting to institute reforms through Senator McClellan's bill, the House was attempting reform measures through the Omnibus Appropriation Bill. This proposal was one which consolidated the various appropriation bills into a single measure. By this procedure, Congress would have complete overview of the impact of approved expenditures and effectively control the level of expenditures.

This approach also met with failure for fear of extending the President's control over the budget via the item veto provision. With authority to veto specific portions of approved appropriations, the President could alter the effect of the entire bill and effectively gain additional budgetary control.

Congress continues today in its role as critic and facilator of the President's budget, and the struggle to regain budgetary control from the Executive is ever present as the nation enters the decade of the Seventies. The Legislative Reoganization Act of 1969 and the Fiscal Act of 1970 are ample evidence of the attempts of Congress to shift the center of budgetary power and control in its favor.

This brief history of the development of the congressional role in the budgetary process clearly indicates the tremendous congressional strength that peaked around the period of the Civil War and the gradual erosion of its powers since that time. With each reform measure undertaken by the Congress, the Executive Branch became more powerful at the expense of the Legislative Branch.

Congressional Structure

Before proceeding with the examination of the significant congressional reform measures, a brief review of the congressional system of committees and subcommittees will be made. It is not the purpose of this review to either support or criticize the committee structure, but to show how they function and provide insight into the underlying reasons for the success or failure of Congress' attempts to regain budgetary control.

Before he became President, Woodrow Wilson wrote "I know not how better to describe our form of government in a single phrase than by calling it a government by the chairman of the standing committees of Congress."[1] This statement might need some modification to fit today's political scene, but the committees of Congress still play a significant role in all affairs of government. The use of committees to assist Congress in the disposition of its legislative business originated in the first Congress, but the organization and functions of committees have undergone substantial change.

At the beginning there were no standing committees, and a special committee was established to consider each bill introduced in Congress. Gradually, the special or select committees assumed jurisdiction over certain legislative subjects and began to function as standing committees. By 1913, the peak year for standing committees, there were sixty-one standing committees in the House and seventy-four in the Senate.

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[1]Kenneth B. Keating, Government of the People, (New York: The World Publishing Company, 1964), p. 70.

Some were eliminated during the period from 1913 to 1945, and the Legislative Reorganization Act of 1946 further reduced the House and Senate combined total from eighty-one to thirty-four. Currently in the 92nd Congress there are thirty-six standing committees.

Congressional committees are powerful and their influence far reaching. None is more powerful or more influencial than the Senate and House Appropriations Committees. These committees are organized and function through their respective autonomous subcommittees. Their autonomony is not absolute, however, since each must be responsible to the parent committee. The foremost characteristic of the House Appropriations Committee.is its decentralization process of budgetary decision making. The various subcommittees have become specialized in certain activities and programs and limit its review and inquiry to that small fragment of the total budget. Richard Fenno, in The Power of the Purse, explains the necessity for this fragmented approach as follows:

> Only by specialization can they (Congress) unearth the volume of information necessary for the intelligent, critical screening of budget requests. Only by developing their own expertise can committee members successfully counter the battery of experts sent down by each executive agency to defend its budget.[1]

Although the subcommittees enjoy a great amount of independence in their day-to-day operations, they are expected to conform to the norms established by the parent body. Deviations from such norms could bring reprisals in the form of nonsupport of their recommendations on the floor of the House, or stripping the subcommittee of some of its power. The

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[1]Richard Fenno, Jr., The Power of the Purse - Appropriations Politics in Congress, (Boston: Little, Brown and Company, 1966), p. 162.

members of the subcommittee stand to lose their individual influence and power from such reprisals and generally adhere to the norms of the full committee.

The basic work of most committees is carried on behind closed doors. After all public hearings have been held on the bill, the committee members go into executive session to "mark up" the bill. The politics of this bargaining and log-rolling which finally produces, or fails to produce, a bill is not publicly known.

Because of its power, the membership of a committee and subcommittee is of crucial importance. Extreme caution is exercised in appointing members to the House Appropriations Committee in order to insure that all members share the basic values and beliefs of the full committee.[1] In the House, the committee is generally held to be an exclusive committee; that is, members are not appointed to any other committee. This has the advantage of allowing members to devote their full energies to their subcommittee, and they can usually expect to serve year after year on that same subcommittee. This more or less permanent assignment serves to heighten the Appropriations Committee interest in the programs and activities for which it provided funds. As Joseph Harris observes,

> ...the powerful and hard-working House and Senate Appropriations Committees of recent years, which, acting through subcommittees, not only systematically and minutely inquire into the administration of policies and programs when they review the itemized budget requests of all executive agencies, but also exercise continuing surveillance over agency activities throughout the year.[2]

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[1]Richard Fenno, Jr., "The House Appropriations Committee as a Political System: The Problem of Integration," The American Political Science Review, LVI (June, 1962), 310-324, reprinted in Congressional Reform: Problems and Prospects, Edited by Joseph S. Clark, (New York: Thomas Y. Crowell, 1965), p. 270.

[2]Joseph P. Harris, Congressional Control of Administration, (Washington, D.C.: The Brookings Institution, 1964), p. 47.

The Senate Appropriations Committee's smaller membership does not permit exclusive committee assignments, and the average senator has less time to devote to the details of the appropriations measures.

The committee system of organization and operation is important to the individual congressman. In the House he must compete with 434 other congressmen, but in the committee environment he can find meaningful work and satisfy his desire for respect, influence, and trust. Reform measures that congressmen preceive to diminish the role of their committees and thereby diminish their own roles in the political environment, are certain to be rejected. The House and Senate Appropriations Committees possess staggering power, and proposals for budgetary reform are carefully analyzed in the light of potential loss of committee power.

Congress is apparently satisfied with the committee structure and its method of conducting the business of government. The esprit, solidarity, and integration of committee members has been an effective shield against reform over the years. Most reform measures would cause some redistribution of power and most certainly diminish the authority and influence that presently exists. Fenno points this out in his description of committee integration and resistance to reforms:

> ...the internal integration of this committee (Appropriations) helps to explain the extraordinary stability, since 1920, of appropriations procedures - in the face of repeated proposals to change them through omnibus appropriations, legislative budgets, new budgeting forms, item veto, Treasury borrowing, etc.[1]

This review of the committee structure explains, in part, the political implications of adopting reform measures and especially

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[1]Fenno, "The House Appropriations Committee as a Political System," reprinted in <u>Congressional Reforms</u>, Edited by Clark, p. 274.

those reforms that might apply to the powerful House and Senate Appropriations Committees. As observed by Joseph Harris in Congress and the Legislative Process,

> Congress is very conservative in considering any changes in its organization and procedures, which are the product of two centuries of evolution . . . . Any proposed reform that affects the power structure will be strongly resisted by those who hold the power . . . . Changes will be adopted only when the need is clear and the demand for reform is great.[1]

The following chapter examines significant budgetary reform proposals that were attempted by the Congress during the period 1921 - 1950.

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[1]Joseph P. Harris, Congress and the Legislative Process, (New York: McGraw-Hill Book Company, 1967), p. 56.

CHAPTER III

SIGNIFICANT REFORM MEASURES FROM 1921 - 1950

Background

The struggle of Congress to regain its control over the federal budget from the Executive Branch has been evident since the days following the Civil War. This chapter will discuss the significant efforts of Congress to effect budgetary reform and its attempt to shift the power structure within the federal government.

Prior to the enactment of the first of these major reform measures, the business of the nation was conducted behind the scene of public politics. The country was in the strangle of "boss rule" which effectively kept the financial transactions away from public view. Power was concentrated in the hands of a few, while the expenditures of government had tripled during the period from 1885 - 1912. Public pressure was ever increasing to end the back door politics in government and end the corrupt practices that contributed significantly to the wasteful expenditures of government funds. It was this public mood with accompanying pressure that set the stage for what was to become continuing attempts by Congress to regulate the business of government and to gain additional power and control from the Executive Branch regarding the expenditure of federal funds.

The Budget and Accounting Act of 1921

The Budget and Accounting Act of 1921 was the first significant reform that Congress attempted to gain budgetary control. The move toward this reform gained momentum during President Taft's administration when, in 1910, he appointed the Commission on Economy and Efficiency to study methods of transacting the government's business. In 1912, President Taft sent a message to Congress concerning "Economy and Efficiency in the Government Service." Later that year a report was forwarded to Congress by the President on "The Need for a National Budget." Both of these documents were of vital importance, because they examined for the first time the detailed structure of the government and the character of government expenditures.

At this stage, the Congress was opposed to the concept of an executive budget, and failed to seriously consider President Taft's recommendations. The Congress insisted on having the executive departments and agencies submit appropriations requests according to existing laws and directly to the Congress.

President Taft was defeated in the election of 1912 and his budget submission to Congress was not acted upon. President Wilson became concerned with matters other than the executive budget and this area of control was not to be approached again until after World War I.

In 1919, the House of Representatives established a Select Committee to study the possibility of instituting a national budget. The committee agreed early in its activities that a national budget system was both desirable and urgently required. The discussions and

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hearings which followed were centered around the question of what type of agency should be established to operate such a budget system. There were those who felt the system should be operated by the President and others who felt the Treasury Department, under the direction of the President, should have responsibility for implementing the budgetary system.

The Select Committee's recommendations were overwhelmingly approved by the House on October 21, 1919. Some House members, including the powerful Speaker of the House, voiced objections to an executive budget on the grounds that control would be concentrated further in one branch of government, and that the budget would no longer adequately represent the needs of the voters of the country. This was the view of a minority, however, and the majority of the members of the House felt that an executive budget system would "strengthen and improve the ability of the Congress to control national finances."[1] The House generally viewed the concept of the national budget as a means of reducing federal expenditures and would clear the way for legislating reductions in the tax rates.

Due to the pressure of consideration on the Versailles Treaty, the Senate did not act on the bill until 1920. The measure was passed by the Senate that year, but because of President Wilson's opposition to the provision that the Comptroller General, the head of the General Accounting Office created under the Act, could not be discharged by the

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[1] Jesse Burkhead, Governmental Budgeting, (New York: John Wiley and Sons, Inc., 1956), pp. 26 - 27.

President, the bill was vetoed. President Wilson was defeated in the subsequent election by Harding, and on June 10, 1921, President Harding signed into law the Budget and Accounting Act.

The Act provided for the procedural steps in the budgetary process, those steps being developed around the constitutional requirements for the separation of powers between the Legislative and Executive Branches. In step one, the President, with assistance from the newly created Bureau of the Budget, must prepare annually a unified budget covering the total fiscal requirements of the government and submit the budget to Congress in January. In step two, Congress reviews the budget and authorizes funds for those programs it approves. In step three, the government spends the authorized funds; and, in step four, the newly created General Accounting Office audits and accounts and submits its reports to Congress.

In enacting the Budget and Accounting Act, the Congress intended to gain fiscal control over national expenditures and at the same time yield to the national pressure that demanded a more business-like approach in the operation of the federal government. To counter balance the additional power and control the Executive Branch would enjoy through the Bureau of the Budget, Congress established the General Accounting Office.

The General Accounting Office was to be an extension of Congress, an "arm of Congress", examining and investigating the expenditures of funds by the Executive Branch. The Congress viewed the function of the GAO as initiating the return to the basic concept of legislative control over federal funds. By having its own nonpartisan,

nonpolitical agent to furnish information concerning the financial transactions of the government, Congress could ensure that expenditures were made according to their intended purposes. In addition to the audit function, the GAO was given the power to prescribe the forms, systems, and procedures for administrative appropriation and fund accounting. In his reports to Congress, the Comptroller General was to make recommendations concerning greater economy and efficiency in public expenditures.

The General Accounting Office did not provide the counter balance to the Bureau of the Budget that Congress had hoped, and the Budget and Accounting Act of 1921 resulted in added strength and power for the Executive Branch. The functions of the GAO have been limited to post-audit functions that center around the legality of expenditures rather than how efficiently the funds were used. Congress has also been accused of negligence in its use of GAO, especially the House Appropriations Committee. Further, the pre-audit examination of the budget by GAO failed to develop, and today that agency does not review agency budget justification until after the appropriations bills have been passed.

The Legislative Reorganization Act of 1946

The next significant reform legislation was not passed until 1946, and this was the Legislative Reorganization Act. The Joint Committee on the Reorganization of Congress was established in 1945 with the responsibility for reviewing congressional procedures and

recommending methods for gaining control and oversight over the Executive Branch. The major budgetary reform aspect of this Act centers around its provision for a "legislative budget."

Under the concept of the legislative budget, all receipts and expenditures were to brought together for simultaneous fixing of targets. The House Appropriations Committee, the House Ways and Means Committee, together with the Senate Appropriations Committee and Senate Finance Committee were to meet jointly at the beginning of each session to review the President's budget and recommend to the Congress a legislative budget that would provide a ceiling on expenditures. The idea behind the legislative budget approach was to provide for high-level debate on expenditures and revenues, and strengthen congressional control of the nation's purse by adopting a target of expenditures beyond which total appropriations could not go. The Joint Committee on the Budget was to report annually, by February 15, its recommendations concerning the maximum amount to be appropriated for expenditures in that year, including a reserve for deficiencies. In effect, these procedures would provide Congress with the means of determining the broad fiscal policy of the government.

The legislative budget concept failed to prove workable. Although the Joint Committee produced a concurrent resolution for budget adoption in 1947, it became deadlocked in conference. The House and Senate conferees were unable to reach agreement concerning the division of the expected surplus between tax reduction and debt retirement, and the resolution was effectively killed. In 1948, both the House and Senate passed the Joint Committee's resulution on February 18 and 27, respectively, but the Congress exceeded the budget ceiling by more than

$6 billion. In 1949, on the third and final attempt to effect a legislative budget, both Houses agreed to postpone the date for reporting the legislative budget from February 15 to May 1. By May 1, eleven appropriations bills had bassed the House and nine had passed the Senate, and no further action was taken to submit a resolution.

One other provision of the Legislative Reorganization Act that evidenced congressional concern over the growing power of the Executive Branch was the authorization for larger congressional staffs. This Act, in fact, marked the real birth of the congressional staff system.

The need for increased expert staffs for the fiscal committees of Congress had long been advocated. During the 77th Congress, Representative Dirksen, then a member of the House Appropriations Committee, told the House:

> There is nothing so discouraging as an Appropriations subcommittee hearing, with the committee members on one side of the table and the agency heads and their experts lined up on the other. They have all the facts at their finger tips, but all they need to tell us is what they want us to know. We have no way of checking up on them. We don't even know enough to ask the right questions. It's a sort of combination quiz program and fishing expedition. It's like attempting to try a case in court without witnesses and without evidence. The defendent gives the only testimony.[1]

Even with this feeling of many of its members, the House Appropriations Committee has resisted pressures to increase its staff. It is generally accepted that the reason for such resistance is the risks

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[1]George B. Galloway, Reform of the Federal Budget, (Washington, D.C.: The Library of Congress Legislative Reference Service, 1950), p. 122.

that such a staff might become too independent and effectively usurp the legislative role. The reluctance of the Appropriations Committee to build an adequate staff to avoid the situation expressed by Representative Dirksen contributed to the imbalance of budgetary control which existed between the Legislative and Executive Branches.

The Employment Act of 1946

During the period just prior to the end of World War II, the government was deeply concerned that the nation would enter a period of recession or depression when the war came to an end. There had been such periods at the close of previous wars, a condition brought about by massive unemployment and the economy gearing from military support to domestic production. It was during the war years, 1944, that Congressman Wright Patman (Texas) warned his constituents that "unemployment is the most serious postwar problem ahead of us."[1] He contended that if our postwar industry could not absorb the potential workforce returning from military service, it was the federal government's responsibility to create jobs and prevent excessive unemployment.

It was this general feeling throughout Congress that gave rise to a full employment bill, legislation that theretofore would have met with certain defeat. Senator Murray (Montana) drafted a proposed bill entitled "Legislation for Reconversion and Full Employment" which passed the Senate on September 29, 1945. Representative Patman introduced a full employment bill which was adopted by the House on December 14, 1945.

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[1]U.S. Congress, Joint Economic Committee, Twentieth Anniversary of the Employment Act of 1946, (Washington, D.C.: Government Printing Office, 1966), p. 133.

It then became the task of the House-Senate Conference Committee to work out a compromise acceptable to both Houses. There were strong feelings concerning each version of the bill, and it appeared that a stalemate was certain. It was through skillful redrafts that agreement was finally reached on a revised bill entitled "The Employment Act of 1946." The bill passed the House and Senate on February 6 and February 8, respectively, and was signed into law by President Truman on February 20, 1946.

The Employment Act directed that the President should submit to Congress not later than January 20 of each year an "economic report" that advised the Congress of economic conditions of the country. This report was to contain four basic categories:

1. The levels of employment, production and purchasing power in the United States and the levels needed to carry out the basic policy of the law.

2. Current and foreseeable trends in the levels of employment, production, and purchasing power.

3. A review of the economic programs of the federal government and a review of the economic conditions affecting employment.

4. A program for carrying out the policy declared in the Act, together with such recommendations for legislation as he may deem desirable.

To assist the President in the preparation of the Economic Report, and to gather timely, authoritative information, the Act created the Council of Economic Advisors.

To offset the advantage afforded the President via the Council of Economic Advisors, the Act provided for a congressional committee for the purpose of reviewing the President's Economic Report. The original

version of the Act called the committee the "Joint Committee on the Economic Report;" however, by a 1956 amendment, the committee name was changed to "Joint Economic Committee." This committee is composed of ten members of the House and ten members of the Senate. The function of the committee is as follows:

> (1) to make a continuing study of matters relating to the Economic Report; (2) to study means of coordinating programs in order to further the policy of this Act; and (3) as a guide to the several committees of the Congress dealing with legislation relating to the Economic Report, not later than March 1, of each year (beginning with 1947) to file a report with the Senate and the House of Representatives containing its findings and recommendations with respect to each of the main recommendations made by the President in the Economic Report, and from time to time to make such other reports and recommendations to the Senate and House of Representatives as it deems advisable.[1]

The Joint Economic Committee has provided Congress with a broader perspective on national economic policy and the resulting implications of the federal budget. Its functions regarding budgetary control are, at best, indirect. The analysis submitted to Congress concerning the President's Report is highly regarded by congressmen, and the legislative committee members are, to some degree, influenced by the committee report. Advisory committees in the past have had little, if any, influence on the members of legislative committees, and, consequently, have done little to affect governmental policy. The Joint Economic Committee offers promise of being the exception and appears to be the most logical and likely committee to perform overall consideration of fiscal policy and to influence the fiscal policies that emerge from the Congress.

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[1]Employment Act of 1946, As Amended, With Related Laws, Statutes at Large, LX, Sec. 23, (1969), p. 4.

In 1963, the JEC advised the Congress and the public of its intent to enter the field of budgetary forecasts. In a Joint Committee Report, the committee advised that it

> will attempt to provide to the Congress and to other interested groups our best assessment of the types of changes that are occuring in the budget and their significance on aggregate receipts and expenditures.[1]

This was a clear statement of their desire to exercise firmer control over the President's recommended fiscal policies prior to their authorization by Congress.

The unique nature of the committee's function gives it a distinct advantage over most other committees. The JEC is not confined to a specialized mission in the field of agriculture, banking and currency, or other specific microeconomic areas. The committee has produced studies on automation, low-income families, fiscal policy, agriculture, economic stability and growth, the balance of payments, to cite only a few. No other committee has such a broad mandate. This broad insight that the committee enjoys can certainly account for the prestige it demands throughout Congress and the Executive Branch. It also accounts for the influence its recommendations produce within the legislative committees.

The Joint Economic Committee is a diversified, informed committee that is potentially qualified to perform its functions, and exert powerful influence over fiscal policy.

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[1]U.S. Congress, Senate, Report of the Joint Economic Committee on The Federal Budget as an Economic Document, S. Rpt. 396, 88th Cong., 1st sess., 1963, p. 20.

The Omnibus Appropriations Act of 1950

During the period of 1947 - 1949, when the Joint Committee on the Budget was attempting to implement the legislative budget, other congressmen were exploring variations of the concept of a consolidated congressional budget. In 1947, the Senate Committee on Rules and Administration established a subcommittee and conducted hearings on a proposal to consider all general appropriations bills in one consolidated (omnibus) appropriations bill. This was another effort by Congress to gain an overview of the President's budget by discontinuing piecemeal appropriations, and reviewing planned expenditures along with the estimates of revenues.

The procedure for considering the President's budget and appropriating funds under the Omnibus Appropriations Act was for the full Appropriations Committee to function as a central committee over the various appropriations subcommittees. The subcommittees were to review portions of the President's budget and forward recommendations concerning appropriations to the central committee. All recommendations would be held by the central committee pending completion of review by all subcommittees. The committee would have completed subcommittee reports concerning both expenditures and revenues, and would have the necessary information to reduce expenditures and thus reduce the federal debt or tax rate. This method was viewed as an effective means of controlling federal budgetary policy and would significantly shift the power structure in favor of Congress.

While the legislative budget was finally killed in 1949, the Chairman of the House Appropriations Committee advised the Congress that he would implement the Omnibus Appropriations Bill in January, 1950. Due to delays in both Houses, the bill was not signed by the President until September 6, 1950. In the next session of Congress, the House Appropriations Committee voted to return to the traditional procedure of appropriating individual bills.

The revolt of the members of the House Appropriations Committee probably resulted from a feeling that the Omnibus Appropriations Act concentrated undue influence and power in the hands of the Chairman. Additionally, the concept of an omnibus approach to appropriations was faced with two major disadvantages:

1. The entire appropriations package was held by the House until all work was completed, and was forwarded to the Senate as one large appropriation measure. This meant that the Senate could not commence its review until the House was finished, a procedure which contributed to unacceptable delays in funding national programs.

2. The omnibus concept did not provide the President the power of "item veto." This meant that the President must withhold the entire appropriations package if he objected to any part of it. This situation would open the way for excessive legislative "riders" to be attached to the appropriation bill because the President would not likely veto the entire package.

The Joint Committee on the Budget

Arthur Smithies said "the most serious and interesting attempt to replace Section 138 (of the Legislative Reorganization Act of 1946) was the McClellan Bill..."[1] This bill provided for the establishment of a fourteen member Joint Committee on the Budget, composed of seven members from each appropriation committee.

On December 11, 1949, Senator McClellan announced his intention of introducing legislation early in the second session of the 81st Congress to give Congress its own "budget bureau." He saw a need for Congress to have more budget experts and investigators to effectively weed out inefficiency and waste in the executive agencies.[2]

The bill as sponsored by Senator McClellan provided for a powerful joint committee whose functions included the following:

1. Inform itself on all matters relating to the President's budget.
2. Consider the President's Report on the State of the Union, Economic Report, revenue estimates, and changing economic conditions.
3. Provide appropriations subcommittees with information to assist in their work on each measure.
4. Report findings on budget estimates to the appropriations committees.
5. Report to legislative committees to provide economy and coordination between authorization and appropriations committees.
6. Compile cost estimates of all programs authorized by Congress.

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[1]Arthur Smithies, The Budgetary Process in the United States, (New York: McGraw-Hill Book Company, 1955), p. 96.

[2]The Washington Post, December 12, 1949.

In effect, the bill would return centralized budgetary authority to the Congress, a move that was bitterly opposed by the Executive Branch. The measure was also opposed by the Speaker of the House, Representative Cannon, because of the proposal's invasion of the constitutional prerogative of the House to initiate appropriations bills.[1]

No action was taken on the proposal during that session of Congress, but hearings were conducted in 1951. In 1952, the bill passed the Senate but failed to pass in the House. The Senate has passed some form of the bill each year since 1952, but the House has never allowed debate or vote on the proposals.

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[1]Congressional Quarterly Service, Federal Economic Policy, (Washington, D.C.: Congressional Quarterly Service, 1968), p. 39.

CHAPTER IV

SIGNIFICANT REFORM MEASURES FROM 1950 - 1971

Perspective

Congress effectively discouraged any meaningful fiscal reforms until 1970. During the period of the 1950's, the Senate attempted to keep the idea of a Joint Budget Committee alive, but the House was successful in killing each bill offered. In 1963, the Senate passed, for the sixth time, a bill (S. 537) to establish a Joint Congressional Committee on the Budget. The fourteen member committee would have an expert staff to provide information on the budget, including data concerning general revenues, to the Appropriations Committees. It would also make suggestions to other committees on legislation in an effort to promote greater efficiency and economy in the Government.

This bill was rejected by the House, but the pressure bearing on the Congress to produce changes in the manner in which the budget was reviewed and appropriations bills passed was reaching a peak. In 1963, there was even a more serious appropriations delay than in previous years. By the beginning of December, five months after the financial year began, Congress had cleared only four of twelve regular appropriations bills.

This increased pressure on Congress produced a new burst of reform enthusiasm. A leader in this reform movement was Senator Joseph S. Clark (D., Pa.), whose proposals ranged from the establishment of a

joint committee on the organization of Congress, patterned after the LaFollette - Monroney committee, to the election of committee chairmen by secret ballot of committee members.

Senator Clark was perhaps the most persistent advocate of Congressional reform, not only during 1963, but throughout the decade of the Sixties. During this period he introduced no less than sixteen specific proposals to modify the operations of the Senate and/or the Congress. The most significant of these proposals, as they relate to the appropriation process, are as follows:

1. Create a joint committee of Congress to study its organization and operations and recommend improvement.

2. Provide that half of the appropriations bills be introduced by Senators and that joint hearings be held on appropriations bills.

3. Provide that a majority of Senate conferees must favor the Senate version of a bill on which the House and Senate disagree.

4. Permit each Senate standing committee to meet while the Senate is in session at the will of the majority of the committee and not be prevented from doing so by a single member.

5. Transfer selected functions from the Finance Committee to several other Senate committees.

6. Urge Senate standing committees to report by July 4 all legislative proposals of the Executive Branch.

7. Permit a majority of a committee to convene meetings, consider any matter within the jurisdiction of the committee and end committee debate on a measure.

Many of Senator Clark's proposals were sponsored by other Senators, but his closest ally was Senator Clifford P. Case (R., N.J.).

Senator Clark's proposal in 1963, the establishment of a joint committee to study Congressional operations and organization (S.Con.Res.1) was debated briefly by the Senate in December of that year, but died when a filibuster was threatened on amendments to broaden the scope of the proposed committee.

The mood of the Congress was definitely established by this time, and it was now a matter of joining forces to push a reform measure through both Houses. The year 1965 marked the commencement of a study of the operations of Congress. During the 89th session of Congress, a Joint Committee on the Organization of the Congress was established and marked the beginning of the first major attempt at Congressional reform since the Legislative Reorganization Act of 1946. The Joint Committee was established only for the duration of the 89th Congress and was not authorized to report legislation.

The Joint Committee held lengthy hearings during a five-month period and heard 199 witnesses, including 106 Senators and Representatives. The Committee conducted interviews with Congressional staff personnel and political scientists, evaluated published and unpublished Congressional reorganization studies, and produced more than 2,300 pages of printed record. The Joint Committee amassed more than 100 recommendations for improving the legislative process.

On July 28, 1966, after seventeen months of study, the Joint Committee issued a report containing its recommendations (H.Rept.1781 and S.Rept.1414). The Senate acted in 1966 to introduce legislation containing the Joint Committee's recommendation (S. 3848), but the Congress adjourned without taking any action.

On January 16, 1967, Senator Monroney introduced a bill (S.355) which contained most of the provisions of S. 3848. The report of S.355 said that Congress faces a period of organizational crisis in that policy problems had become more complex and that Congress had tended to delegate authority to the Executive Branch. The report said that reforms should be aimed at streamlining the ability of Congress to:

1. Comprehend legislative and budgetary proposals.

2. Maintain effective review of spending and of programs.

3. Keep Congressmen better informed.

4. Regulate the operations of Congress through a new permanent Joint Committee on Congressional Operations.

5. Close loopholes in the lobby registration and reporting law.

The Senate's estimate of the cost of implementing these reform measures was $5 million per year.

The measure died in the House Rules Committee at the end of the 90th Congress.

In April 1969, the House Rules Committee appointed a special subcommittee, chaired by Congressman B. F. Sisk (D., Calif.), held hearings late in 1969, and the Rules Committee reported a reform bill (HR 17654) on June 17, 1970. At this point, reform legislation was assured and actions were rapidly completed:

1. September 17, 1970. HR 17654 passed the House by a roll-call vote of 326 to 19. This became the Legislative Reorganization Act of 1970.

2. October 6, 1970. The Senate passed HR 17654 by a roll-call vote of 59 to 5.

3. October 8, 1970. The House approved by voice vote the version of the bill which the Senate had approved on October 6.

4. October 26, 1970. President Nixon signed HR 17654 (PL 91 - 510), The Legislative Reorganization Act of 1970.

This perspective on the general mood prevailing throughout Congress during a span of nearly twenty years indicates the inertia that traditionally restrains reform legislation. Historically, reform measures are introduced by the Senate and killed by the House, usually because of the opposition of the Chairman of the House Appropriations Committee. Such reforms are confined to the internal operations of Congress, and within Congress, enormous power has traditionally fallen to the Chairman of the Appropriations Committee. As Representative Donald Rumsfeld told his colleagues:

> The difficulty with legislation like the Reorganization Act for the Legislative Branch is that it really has no constituency. It has no built-in lobby. It is a subject matter that is essentially our responsibility as legislators.[1]

An understanding of this lack of incentive to modify the internal structures of Congress helps to explain why the decade of the Fifties was void of any meaningful legislative reforms and why it took seven years from the establishment of a joint committee to review the internal operations of Congress to the legislation of reforms that were recommended by that committee.

During the period of the 1950's, Congress was concerned with problems other than fiscal. The defeat of the Omnibus Appropriations Bill

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[1]Charles Rabb, "Obsolenscence on the Hill", The Nation, March 31, 1969, p. 391.

and the Joint Budget Committee give evidence that the Congress was more concerned with other of its internal operations. In 1953 the Republican Congress was attempting to strengthen its control of committees by increasing the size of the various committees. When the session opened on January 3, 1953, the party breakdowns were as follows:

Senate: 48 Republicans, 47 Democrats, 1 Independent.

House: 221 Republicans, 211 Democrats, 1 Independent.

From the period 1954 through 1956, the Congress was deeply involved in its investigative role. The House Un-American Activities Committee under Chairman Velde (R, Ill.) and the Senate Permanent Investigations Subcommittee under Chairman McCarthy (R, Wis.) were each under investigation by the respective Houses. The House Rules Subcommittee on Legislation and the Senate Rules and Administration Subcommittee on Rules were in search of a "fair play" code to govern Congressional investigations. Criticism had been directed toward the "one-man investigation" and the alleged mistreatment of witnesses by certain committee chairmen.

During the period from 1957 through 1961, concern for reform began to emerge. Senator Warren G. Magnuson (D., Wash.) introduced legislation in the 85th and 86th Congress directed toward the problems of the appropriations process. During 1961, the phrase "backdoor spending" was used effectively by Congress to gain greater control over federal finances. Although the phrase was never precisely defined, the term was used to describe a variety of devices by which the agencies entered into financial obligations over which Congress had limited control.

In 1962, a feud between the Senate and House Appropriations Committees kept the Congress off balance through most of that session.

This dispute, which had been growing for several years, centered on the question of whether the Senate had the right under the Constitution to initiate appropriations bills, and whether the Senate could add to House passed appropriations bills funds for items either not previously considered by the House or considered and turned down. Further, there was dispute over where the Senate-House conference committees on appropriations bills should meet, and by whom they should be chaired. The feud delayed final action on appropriations bills for three months, and definitely set the stage for reform legislation that would be proposed in 1963

The Fiscal Act of 1970

Senator Magnuson's perennial submission of a bill to provide for a separate session of Congress for the consideration of appropriations bills and to establish the calendar year as the fiscal year of the federal government was submitted on November 4, 1969, under the title of "The Fiscal Act of 1970". Senator Magnuson has introduced a bill into Congress to accomplish these two things "every year of Congress for twenty years",[1] but each bill has died without debate. The importance of this Act, especially during the period from 1965 until the present, is that it served to highlight the difficulties experienced by Congress in completing action on appropriations bills, and as these difficulties continue to expand, such an act could very well be legislated.

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[1] Robert P. Hey, "Congress May Update Appropriation Machinery, U. S. Agencies Clamor - How Much Can We Spend in 1970", The Christian Science Monitor, December 16, 1969, in Congressional Record, CXV, S. 17745, 91st Cong., 2nd sess., December 23, 1969.

Congress might be nearer to accepting such a proposed bill than might be expected. It is interesting to note that the Legislative Reorganization Act of 1970 had, at one stage in its development, a provision that incorporated the essentials of Senator Magnuson's bill. Even more interesting, after the Legislative Reorganization Act was signed into law, Senators William B. Saxbe (R., Ohio), Alan Cranston (D., Calif.), Richard S. Schweiker (R., Pa.), and Harold E. Hughes (D., Iowa) recommended that the Senate consider changing from a fiscal to a calendar year separating the budget and legislative sessions.

Because of the growing support for such changes and the potential for Congressional recoupment of fiscal controls through the proposal, the Fiscal Act of 1970 will be examined and analyzed.

Senator Magnuson's proposal (S 3113) before the 91st Congress had three main sections:

1. Title I - Fiscal Sessions of the Congress.
2. Title II - Change of Fiscal Year.
3. Title III - Amendments to the Budget and Accounting Act of 1921.

Under Title I, the Congress would meet from January through the first Monday in November in "legislative sessions". These sessions would be devoted exclusively to passing new laws, examining federal programs, and authorizing the maximum amount of funds they could be given. From the second Monday in November through the end of December, Congress would meet in "fiscal sessions". . . "for the purpose of considering bills and

resolutions making for the support of the Government."[1] The Act also provides for the regular functioning of standing committees during both sessions. Additionally, in the event of an emergency, the President could advise Congress that immediate legislative action is warranted and the Congress would be obliged to immediately consider the legislation.

Title II of the Act provides that the fiscal year of the Treasury of the United States, in all matter of accounts, receipts, expenditures, estimates and appropriations, would commence on January 1, 1973, and end on December 31, 1973. The bill further provides for effecting the change in fiscal years by extending the fiscal year commencing on July 1, 1971 to December 31, 1972. Thereafter, the fiscal year would run from January 1 through December 31.

Title III of the Act amends the provisons of the Budget and Accounting Act of 1921 that concern the President's schedule for submission of the budget to Congress. The Act proposed that the budget be submitted to Congress on or before July 15 of the year preceeding the commencement of the fiscal year in lieu of the January 15 deadline now in effect. More important than the change in submission dates of the budget is the requirement for the President to include in the submission an accounting of the capital assets of the government. The accounting format was left to the discretion of the President, but the requirement for a statement of assets and their value at the end of each fiscal year was firm. This requirement would certainly be subjected to intense negotiation and compromise since

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[1]U.S. Congress, Senate, Fiscal Act of 1970 (A Bill). S. 3113, 91st Cong., 2nd sess., 1969, p. 1.

there is presently no accounting system in the federal government that could produce such information.

The President's position on such a reform measure was outlined in testimony by Philip S. Hughes, then the Deputy Director of the Bureau of the Budget, on October 23, 1969. Mr. Hughes told the Congressional Reorganization Subcommittee of the House Rules Committee:

> In sum, we favor a change in the fiscal year, but believe that the complexities and ramifications of such a change should be carefully explored and planned for.[1]

Senator Magnuson, in an attempt to avoid having his bill die in committee as it has on previous occasions, wrote to Senator B. Everett Jordan, Chairman of the Senate Committee on Rules and Administration, urging his prompt consideration. The letter, signed by nine Senators, listed the forty co-sponsors of the bill and served to pressure the chairman into acting on the proposal. On January 21, 1970, the Committee on Rules and Administration discharged the bill and referred it to the Committee on Government Operations. The measure was then routed to the Executive Branch for comments, and died in committee.

The fiscal year issue is deeply rooted in American history. When the country was first formed, the fiscal year ran from January to January, and Congressmen would arrive in December for the legislative session. The country was young, small and uncomplicated, and the appropriation process was short and could be accomplished in a month. In the early 1800's it began to take longer. In 1843, Congress changed the fiscal year to the present July 1 to June 30 period in order to give

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[1]Hey, "Congress May Update Appropriation Machinery", The Christian Science Monitor, in Congressional Record, CXV, S. 17746, 91st Cong., 2nd sess., December 23, 1969.

itself several months to conduct its business and carefully consider appropriations. In recent years, this has not been enough time, because the country has become more populous, government bigger, and society more complicated.

Senator Magnuson and his co-sponsors surely realize the difficulties of breaking tradition, especially in the Senate, yet it is just as certain that Senator Magnuson will introduce his bill again in the 92nd Congress for the twenty-first time.

The Legislative Reorganization Act of 1970

On October 20, 1970, President Nixon signed into law the Legislative Reorganization Act of 1970 (HR 17654, PL 91-510). Passage of the legislative reform bill climaxed a five-year effort by the Congress to streamline its operations and organization. The major aspects of the Act include:

1. Improvement of the operations of Congress, in committee and on the floor.
2. Providing Congress with better means of evaluating the federal budget.
3. Improved resources for research and information.

The Legislative Reorganization Act did not produce the sweeping changes that many reform advocates desired. Specifically, the Act did not modify the senority system, despite attempts on July 27, 1970, by Respresentatives Schwengel (R., Iowa), Reuss (D., Wis.), and Bingham (D., N. Y.), and on October 6, 1970, by Senators Mathias (R., Md.), Baker (R., Tenn.), and Packwood (R., Ore.) to do so. The major concern

of the Congressmen was the manner in which a committee chairman was selected and the permanency of the appointment. Most reformists favored election of the chairman by majority vote of the committee members for a specified term.

The Act opens to the public eye more of the operations of Congress by changing procedures so that positions taken by Congressmen on various bills and amendments will be revealed publicly with greater frequency. Additionally, the Act allows radio and television coverage of committee hearings in the House, a provision that existed for the Senate under previous procedures.

The Legislative Reorganization Act provides for a modernized processing system for federal fiscal and budgetary data, more opportunity for Congress to oversee the costs of various programs, increased assistance for Congressional committees, and a Joint Committee on Congressional Operations to continue to study the functioning of Congress.

The specific provisions of the Act that relate to this study are those under Title II, Fiscal Controls, but it is both informative and necessary to examine the entire Act in order to gain a full understanding of the scope of its reforms and provide insight into the measure of added budgetary control that might shift to the Congress.

The movement for reform that began in 1963 with Senator Clark's proposal for the establishment of a joint committee to study the organization of Congress began to take form in 1965 when the Congress finally decided to authorize the establishment of the committee. The membership was set at twelve, evenly divided between the House and Senate. The resolution (S.Con.Res.2) establishing the Joint Committee gave it specific

authority to study and make recommendations on a variety of subjects, including the following:

1. Relationship between the House and Senate.

2. Relationship between the Congress and other branches of government.

3. Salaries of members of Congress and Congressional staff employees.

4. The structure and relationship between committees.

There was little opposition to the establishment of the Joint Committee, although some members in both Houses felt the committee should not be restricted from making recommendations regarding rules, parliamentary procedure, practices and precedents of the Senate or the House.

The May 31, 1965 issue of The Nation published an editorial concerning the newly created Joint Committee and the restrictions placed on that committee:

> Both houses this spring approved the establishment of a joint committee to study the reform of Congressional organization and operation. But the resolution, introduced by Senator Mike Monroney of Oklahoma, contained a stipulation that the joint committee steer clear of "roles, parliamentary procedure, practices and/or precedents" and "consideration of any matter on the floor" of either the Senate or the House. Senators Joseph Clark, a reformist gadfly, and Hugh Scott, joined forces to argue that the very areas precluded from the study "constitute the strong and endless red tape which bind the Congress and prevent action when action is needed. There is not much else worth investigating."[1]

Senator Monroney's position was upheld by a Senate vote of 58 to 29, and he was subsequently made the Senate's chief delegate

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[1]The Nation, May 31, 1965, p. 581.

and co-chairman of the Joint Committee. House Speaker McCormack (D., Mass.) named Representative Ray J. Madden (D., Ind.) as co-chairman for the House.

The Committee held hearings on Congressional reform between May 10 and September 23, 1965, taking testimony first from members of Congress and then from political scientists, representatives of various organizations, and persons with special interests in or knowledge of reform. The Joint Committee filed its report in 1966, and the Senate passed a bill (S 355) in 1967 embodying most of the Committee's recommendations.

Although some minor changes were made in the Senate's original version of the bill, the 1969 House bill (HR 17654) that ultimately became the Legislative Reorganization Act contained most of the essentials of the Joint Committee's recommendations and the Senate's original version. Among those provisions which did not survive the legislative process were:

1. Elimination of proxy voting in committees.

2. The requirement that appropriations hearings, except those involving national security, be open.

3. The requirement that all votes on appropriations bills be roll-call votes.

In the area of fiscal controls provided under the Act, Congress attempted to gain a broader view of fiscal policy and gain the capability of analyzing the total impact of federal expenditures. The major provisions contained under Title II, Fiscal Controls, are as follows:

1. Directed the Secretary of the Treasury and the Director of the Office of Management and Budget to set up and maintain a standardized data processing system for budgetary and fiscal data.

2. Directed the Secretary and Director to furnish to Congressional committees, upon request, information on the location and nature of available data on federal programs, activities, receipts and expenditures.

3. Provided that the President should send Congress five-year forecasts of the fiscal impact of every new or existing federal program.

4. Provided that the President should update the budget for the next fiscal year at midyear and transmit to Congress a supplemental summary of those revisions by June 1 each year.

5. Provided that the Appropriations Committee of the House should, within thirty days after the President sends the budget to Congress, hold hearings.

6. Required that committee reports on all measures include five-year cost estimates for the programs affected, excluding both Appropriations Committees.

Viewing the Act as a whole, the modest changes legislated do little to modify the internal operations of the Congress. The added fiscal controls could be the first step in prying Congress away from a fragmented approach to the budget, but the committee system under which the budget review is conducted and appropriations bills passed is not significantly affected.

Additional reforms in Senate procedures and operations have been proposed, but the House is not likely to welcome additional measures. The changes made by the Legislative Reorganization Act of 1970 were probably sufficient to blunt any major drive for reform within the next few years.

CHAPTER V

EFFECTIVENESS OF REFORMS ATTEMPTED

Overview

In attempting to evaluate the effectiveness of the fiscal reforms that Congress has either legislated or seriously considered, it is not sufficient merely to judge a measure effective or ineffective. It is vital to an enlightened evaluation of reform attempts to recognize the conservative nature of Congress as an institution, an institution that characteristically resists change. As this study might indicate, Congress is, however, not immune to change. Congress accepts reforms slowly, cautiously and in piecemeal fashion, a pace that does not satisfy those reformers who press for bold changes, but does satisfy the need of Congress, as a body, to implement reforms.

Senate Majority Leader Mike Mansfield's (D., Mont.) observations in 1963 concerning Congressional reforms probably expresses the view of a majority of the members of Congress:

> Attempts are made to reform or to speed it (Congress) up. But somehow or other it is able to take care of its legislation and look after the interests of the country, and individual Senators are able to look after the interests of their states as well. Now there is a need for some reforms, but I certainly do not think we ought to act hastily. Some reforms are needed; very few. These reforms will come in time, but they will not come overnight.[1]

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[1] Congress and the Nation, (Washington, D. C.: Congressional Quarterly Service, 1965), p. 1407.

A variety of factors has contributed to past reforms of Congress, and these factors can generally be categorized as follows:

1. The continually shifting distribution of power within Congress.

2. Recurring efforts to guarantee that Congress properly represents the nation and fulfills its responsibilities.

3. The expanding functions of government, especially in the Executive Branch.

The control of the executive has continued to be an area of major concern to Congress. Congress generally regards the power of the purse as a principal means of controlling the Executive Branch and has made repeated efforts to strengthen Congressional control by strengthening its power over the use of federal funds.

Until Appropriations Committees were set up in the House (1865) and Senate (1867), one committee in each house had handled both revenue and spending legislation. In 1885, the House spread the powers of its Appropriations Committees among nine committees, and the Senate, two years later, spread appropriations powers among its legislative committees. Although this division of responsibility allowed committees most familar with a subject to consider pertinent appropriations, it resulted in decentralization so complete that no unified consideration or control of fiscal policy was possible.

In 1920, the House restored exclusive spending powers to its Appropriation Committee. Congress sought to centralize fiscal management of the Administration directly under the President and in 1921 passed the Budget and Accounting Act.

The Budget and Accounting Act of 1921

Under the Act, Congress authorized the establishment of the Bureau of the Budget as a staff arm of the President to assist him in the preparation of the annual budget and any supplemental or deficiency estimates and to assist the President in securing greater economy and efficiency in the Executive Branch. As a congressional counterweight to the Bureau of the Budget, the Act provided for the establishment of the General Accounting Office. This provision was designed to strengthen Congressional oversight of fiscal policy and spending.

Before World War I, neither the expenditures nor the revenues of the federal government exceeded $800 million. Having seen expenditures reach $18.5 billion in fiscal 1919 at the height of the war, and having appropriated $6.5 billion for fiscal 1920, the first postwar year, Congress decided it must reorganize its financial machinery, both to retrench expenditures and to tighten control over fiscal policy.

The role of the General Accounting Office failed to develop as the Congress envisioned. The functions performed by GAO were limited to those of a post-audit nature. This audit function neither tested the validity and consequences of plans, programs and policies, nor promoted discussions in these areas, nor projected the consequences of alternative courses of action.

The House Appropriations Committee's reluctance to allow the GAO a pre-audit budgetary role further diluted the effectiveness of that office as a counterweight to the Bureau of the Budget. The House Appropriations Committee was reluctant to develop a role for GAO, because

it had no control over that office and preferred to develop its own staff in the review of the President's budget.[1]

The attempt of Congress to recapture control and coordination over money bills by reverting to the single Appropriations Committees in each House was not as successful as anticipated. The President's budget was still broken down into numerous pieces and assigned to various subcommittees for review, hearings, and recommendations to the full committee. The piecemeal and fragmented review process continued as before, and the budget was not received as an overall financial plan by Congress. The subcommittees functioned as autonomous, independent units subject to little control or coordination by the full committees and parent bodies. James MacGregor Burns, in Presidential Government, evaluated the effort by Congress to re-establish a single, coordinated committee for appropriations review:

> The Congressional effort to integrate its own appropriation activities was largely abortive; especially in the House, the new Appropriations Committee spawned subcommittees that operated with almost the same mutual tolerance and independence as had the separate appropriations committees before 1920.[2]

The Budget and Accounting Act of 1921 appears now to have made the Executive Branch stronger in budgetary control in comparison to Congress, but this is not to imply that the Act was ineffective in restoring some measure of budgetary control to Congress. What appears to have happened is that the gains realized by the Executive Branch were not matched by Congressional gains.

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[1] John S. Saloma, The Responsible Use of Power, (Washington, D. C.: American Enterprise Institution, 1964), p. 42.

[2] James MacGregor Burns, Presidential Government: The Crucible of Leadership, (Boston: Houghton-Mifflin Company, 1966), p. 71.

In assessing the Act in terms of shifts in budgetary influence and control, it is important to note that this Act was the first significant reform attempt by Congress in 132 years. In a short-term assessment, the greater gains were in the Executive Branch, but the long-term gains may be those that set the mood for further reform. In summary, the gains for Congress may have been the recognition of the imbalance of power between the two branches, and the dawning of the era of the reform.

The Legislative Reorganization Act of 1946

Congress was beginning to feel the one-sided effect of the Budget and Accounting Act of 1921. The added power and control that was afforded the President during the years of World War II prompted the Congress to again review its operations and organization.

The Act reduced the number of standing committees to one half -- to fifteen in the Senate and nineteen in the House, but subcommittees proliferated. The Act further directed each standing committee to exercise continuing watchfulness over the Executive Agencies under their jurisdication. This attempt to maintain oversight was further strengthened by the provision for a "legislative budget."

Attempts to implement the legislative budget in 1947, 1948 and 1949 failed or were ineffective. One of the principal reasons for its failure was the inability of the Congress to make accurate estimates of spending so early in the session and before individual agency requests were considered in detail. Another reason for the failure

was Congress' practice of passing appropriations bills separately without strict control on total outlays.

The Act authorized each standing committee to increase its professional staff, and it is this provision that has proven the most beneficial to Congress. The increase in professional staff has enabled Congress to increase its influence and control over Executive Branch activities and operations.

The significance of the Legislative Reorganization Act of 1946 is that it was an expression of congressional concern over the imbalance of power between the Legislative and Executive Branches and an attempt to restore equilibrium. Although the real innovation of the Act, the Legislative Budget, was a failure, it signified Congressional recognition of its responsibilities to relate federal expenditures and revenues.

The Employment Act of 1946

Under the Employment Act of 1946, the Congress established the Council of Economic Advisors to assist the President in setting fiscal policy and in the preparation of the budget. The congressional counterweight was the establishment of the Joint Economic Committee.

The establishment of the Joint Economic Committee might well prove to be the most effective budgetary reform measure attempted in recent history. The JEC, as an advisory committee, cannot force its views on the members of Congress, and must resort to thorough investigation of various areas in which it is concerned, solid

justification for its recommendations, and complete integration with the other members and committees of Congress. Only through a reputation of being an informed committee can the JEC formulate positions and recommendations that are acceptable to Congress. The benefits that accrue from such a committee must necessarily be those that are produced over the long run.

The true value of the JEC is centered in its educational function for the various committees of Congress. The benefits derived from this education of Congress must be considered long-term benefits, and it will aid in understanding the effectiveness of the JEC to examine some of these benefits.

In analyzing attempts by Congress to gain more control over the allocation of the nation's resources, some of the most prevailing reasons for its lack of success including the following:

1. Lack of receiving a budget from the President that specifies the total program.

2. Lack of an effective means of analyzing the budget in terms of costs versus benefits.

3. The absence of a consolidated, integrated approach to the implications of fiscal policy, including a single body to consider and recommend to the Congress alternative proposals.

For purposes of this study, attention will focus on the JEC's effectiveness in these problem areas.

The Employment Act stipulated that the President's Economic Report was to be more than a review of past performance, programs and policies. The Act specified that the report would include "a program

for carrying out the policy declared (in the Act) together with such recommendations for legislation as he (the President) may deem necessary or desirable."[1]

The JEC was critical of the President's report for not complying with this requirement of the Act, and in its annual Joint Economic Report freely brought this to the attention of the Executive Branch, Members of Congress, and the public. In its 1965 report, the committee made the following observations:

> Practice and developments in recent years have either departed from, or fallen short of this requirement. We have witnessed the submission of a number of messages each year containing recommendations on parts of the program. While this practice has certain advantages in drawing attention to individual legislative proposals, it tends to obscure the outlines of the administration's entire economic program. We can understand the difficulties of presenting early in the Congress a completely rounded legislative program, but the requirement for the prompt development of national policy each year makes the submission of such a program imperative.[2]

The President today submits a more complete budget in terms of overall programs and its effect on the total economy. The budget also includes current levels of production and unemployment and projects those levels of production needed to carry out the policy declared in the Employment Act. This development can be attributed, in some measure, to the pressures mounted by the Congress which resulted from the persistence of the Joint Economic Committee.

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[1]Employment Act of 1946, Statutes at Large, LX, Sec. 23, (1969), p. 1.

[2]U. S. Congress, House, 1965 Joint Economic Report, H. Rept. 175, 89th Cong., 1st sess., 1965, p. 3.

The JEC, in its analysis of the President's report, continues to stress the cost-benefit relationships of expenditures proposed. This analysis is central in the broad question of assignment of national priorities by seeking a determination of the dollar costs required to attain primary social goals and the resulting trade off of national defense. Examples of the committee's involvement in the area of cost benefit and assignment of national priorities can be found in the 1970 Joint Economic Report. The report recommends that Congress should reorder the national priorities outlined in the President's budget for FY71 by reduction of programs that are out of proportion to the benefits anticipated, and increase expenditures for social and human resource programs that promise higher relative benefits.

The Joint Economic Committee appears to be performing its function of considering the President's budget in a consolidated manner and gaining an overview of the total effect of the proposals offered. The committee goes into great detail through subcommittee hearings and investigations, and the resulting subcommittee reports provide a vast amount of detailed information for use by the several legislative committees of Congress. As an indication of the scope of the Joint Economic Report, the 1970 report discussed and made recommendations in the following areas:

1. The Economic Outlook.
2. Fiscal Policy.
3. Monetary and Financial Developments.
4. Improving the Structure of the Economy.
5. National Priorities.
6. International Economic Issues.

Some of the recommendations and views of the JEC contained in the 1970 report provides further insight into the nature of the committee and how it may influence decisions that determine the areas and levels of expenditure:

1. The need to development contingency programs if anti-inflationary economic policies induce continuing unemployment or recession.

2. To Identify and bring to public attention those sectors of the economy where economic inefficiencies and resource shortages create inflationary pressures, and promote responsible action to correct the condition.

3. The Administration needs to implement procedures to promote the flow of credit to the private housing sector.

4. There are serious disadvantages to direct wage and price controls. Indirect controls or guideposts are more desirable.

The logic supporting these views and recommendations are broadly stated in the report but are further substantiated by the detailed subcommittee reports.

The charter of the Joint Economic Committee spans a wide range of areas and is essentially free to focus upon all government programs. It is this broad scope that gives the committee such prominence and prestige. The committee crosses the several lines of Congressional activity, providing information and alternatives to the legislative committees.

The final area to be discussed regarding the effectiveness of the Joint Economic Committee will focus upon a specific program that has been before the American public for several years . . . the

economic-political issue of the Supersonic Transport. The 1970 Joint Economic Report said "we urge prompt action to reduce or eliminate expenditures for the supersonic transport . . .".[1] To further emphasize this particular program, the Subcommittee on Economy in Government, chaired by Senator William Proxmire, issued a Federal Transportation Report in August, 1970, for the purpose of providing Congress with the latest results of the subcommittee's study and recommendation. Views expressed in this report were completely negative toward continued support of the SST program:

> Few significant public benefits appear likely to result from the supersonic transport (SST) development program. On the other hand, very significant social costs are associated with this program. More productive use of government resources are clearly available. No further federal financial support of the supersonic transport development program is justified at this time.[2]

On December 3, 1970, the Senate voted 52 to 41 to halt federal funding of the SST (but Senate subcommitte on March 18, 1971, voted for it after the House voted against it). Senator Proxmire analyzed the Senate's reversal of its previous support for the SST as follows:

> The big reason for the turnaround was environment. This was the big issue - the disclosures of the past year that the SST posed a tremendous potential threat of air pollution and noise pollution. And the priority argument helped, too (referring to the case made by opponents that the government has to take a new look at where money goes at a time when domestic social programs are being squeezed).[3]

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[1]U. S. Congress, House, 1970 Joint Economic Report, H. Rept 972, 91st Cong., 2nd sess., 1970, p. 39.

[2]U. S. Congress, Joint Economic Committee, Report of the Subcommittee on Economy in Government on Federal Transportation Expenditure, Joint Committee Print, 91st Cong., 2nd sess., 1970, p. 2.

[3]David Hoffman, "Senate Votes Down SST Funds," The Washington Post, December 4, 1970, p. 1.

The significance of this specific case is not whether the SST program continues, but the indication of the potential influence that the committee possesses. As more information is made available to Congress and members are shown acceptable alternative courses of action, control over federal expenditures can increase proportionally.

The real value of the JEC may not have yet reached its peak. The committee exerts some measure of influence over the committees it serves and the prestige of membership on the committee is rising. Ernest S. Griffith, in Congress, expresses this view of the Joint Economic Committee:

> The JEC serves the vital function of preserving the opportunity and practice whereby Congress may formulate alternatives and assumes the lead in the areas where it feels that the executive is dilatory or in error.[1]

In summary, the Employment Act of 1946 has enabled Congress to regain some measure of budgetary influence and control from the Executive Branch. The Joint Economic Committee offers promise of providing Congress increased influence and control over federal expenditures and fiscal policy.

The Omnibus Appropriations Act of 1950

Although the provisions of this Act were never successfully implemented, it did provide the vehicle for continuing criticism of the President's budget. It kept alive the reformists' desires to exercise

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[1]Ernest S. Griffith, Congress: Its Contemporary Role, (New York: University Press, 1956), p. 145.

closer congressional control over the fiscal policy of the nation, and bridged the gap in the reform movement from 1947 until passage by the Senate in 1952 of the Joint Committee on the Budget.

The effectiveness of the Omnibus Appropriations Act must necessarily be appraised in terms other than those of recoupment of control from the Executive Branch. In summary, the Act succeeded in keeping the reform movement alive by providing Congress with possible alternative means of increasing its influence in a budgetary role.

In viewing this attempt at budgetary reform in the short term, the Act must be considered a failure. In a broader view of its impact, the Act produced such controversy and discussion in the area of budgetary reform that its measure of success must be judged in relation to its role in the continuing struggle between Congress and the Executive. In the long term analysis of budgetary reform, the Omnibus Appropriations Act occupies a small, but significant, position.

The Joint Committee on The Budget

The effectiveness of this attempt must be appraised in much the same manner as the Omnibus Appropriations Act of 1950. Although the provisions of the Joint Committee on the Budget have yet to be enacted into law, it serves to spark the Senate with the hope of additional budgetary control. The fact that the Senate continues to pass some form of this bill each year serves to pressure the House for an added measure of control and also serves notice on the Executive Branch that the issue of budgetary reform is still alive.

The concept of the Joint Committee on the Budget incorporates the advantages of a committee similar to the Joint Economic Committee but expands those functions to include legislative review. Emphasis on this type of function lends increased importance to the Joint Economic Committee, an effect that sponsors increased prominence to the JEC and results in a better informed Congress.

In summary, the effectiveness of this reform measure must be judged in terms of the subsidary results produced. Even though the reform has not been implemented as Senator McClellan would like, the continuing pressure by the Senate has produced secondary benefits -- benefits that contribute to the continuing movement for budgetary reform.

The Fiscal Act of 1970

Senator Magnuson's proposal to divide the congressional sessions into two sections, one for legislation and the other for appropriations, is designed to make the Congress more efficient and effective. The Act is meaningful because of its expression of concern for the lack of an effective means of reviewing the President's budget within the time frame currently established. The Act is another of the continuing expressions of the need to effect budgetary reforms in order to provide positive legislative oversight.

The benefits that have been predicted to result from Senator Magnuson's bill were summarized by Senator Mansfield:

> With these proposals in operation, perhaps we could do our job a little more effectively and be able to spend the time we should on both types of measures - that is, the authorization and the appropriation bills.[1]

The effect of the Fiscal Act of 1970 is to increase the pressure within Congress to put the business of financing the government on a more businesslike basis.

The Legislative Reorganization Act of 1970

The effect of the Legislative Reorganization Act of 1970 and its reform measures will be determined by the extent to which Congressional operations adhere to the provisions contained in the Act. The major impact of the Act is concentrated in the area of committee procedures and provides for:

1. Less secrecy surrounding the position of members on various issues.

2. Recording of teller votes taken in the (House) Committee of the Whole.

3. Roll-call votes taken in committee to be made public.

4. Television and/or radio coverage of House committee hearings.

The extent that budgetary control is returned to Congress will be determined by the operations of the committees that review the budget. Thus, the effectiveness of the Act in providing Congress additional

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[1] Congressional Record, CXV, S.17744, 91st Cong., 2nd sess., December 23, 1969.

budgetary control rest with the effectiveness of the reforms in committee operations. So long as the power of the committees remains in the hands of a few senior members, the impact of the Act can be offset by simply ignoring the changes.

Committees form the brain of Congress, and the role of committees has become crucial in the successful reform of the budgetary system. Since the Legislative Reorganization Act of 1970 failed to modify the seniority system which is used in the selection of committee chairmen, the committees are likely to continue to offer the same obstacles to budgetary reforms. Recognizing the need to modify the seniority system if reform of the committee operations is to be successful, Congressman Henry S. Reuss (D., Wis.) offered an amendment to the proposed House bill that provided that seniority need not be the only consideration in selecting committee chairmen. The amendment was rejected by the House, and after the passage of the bill into law, Congressman Reuss made this observation:

> While the Act will be of great help, particularly in the elimination of secrecy by allowing teller votes, its failure to do anything about the seniority rule makes it a matter of limited usefulness.[1]

The effectiveness of this Act in providing additional budgetary control for Congress depends on the operations of the committees of Congress, and how closely the intent of the Act is followed. The powerful House Appropriations Committe is not like to risk dilution of its strength and influence by changing its operations,

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[1]Congressional Quarterly Service, Congressional Quarterly, (Washington, D. C.: Congressional Quarterly Service, December 25, 1970), p. 3064.

and the struggle within Congress to effect redistribution of concentrated power will undoubtedly diminish the potential transfer of control from the Executive to the Legislative Branch.

CHAPTER VI

CONCLUSION

Summary of Reform Success

This study has concentrated on the struggles between the Legislative and Executive Branches in the area of budgetary control. The shift of budgetary influence and control from the Legislative to the Executive Branch has been traced, with emphasis placed on the efforts of Congress to regain some measure of control over fiscal policy.

The importance of the locus of this fiscal control is readily apparent when the nature of the national budget is considered. The budget today embodies decisions of vast impact and importance. It not only proposes how the nation should channel its monetary resources, but commits its manpower and natural resources, not only for the current fiscal year, but for the ensuing years that constitute the life of a plan or program.

It has been estimated that Congress spends nine-tenths of its time struggling with spending issues.[1] This suggests that the greatest potential for Congressional oversight of the Executive Branch lies in the appropriation process, and perhaps explains the recurring reforms that have been attempted to counterbalance the advantages shifting to the Executive.

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[1]Robert Ash Wallace, Congressional Control of Federal Spending, (Detroit: Wayne State University Press, 1960), p. vii.

As early as 1795, Congress found it must legislate the requirement that unexpended balances be returned to the Treasury in a surplus account to prevent the Executive from carrying these funds forward into a new fiscal year and applying them to current appropriations.

Following closely behind this restrictive legislation, Congress was faced with the executive practice of deficiency appropriations, a move to force the Congress to fund programs considered essential by the President. Thus the struggle for fiscal control began, a struggle that continues today.

Until recently, each of the attempted budgetary reforms has been aimed at restoring the Legislative and Executive balance by curbing and weakening the Executive Branch:

1. The reforms of 1921 were centered in the establishment of the General Accounting Office, a move to check the advantages offered the Executive via the Bureau of the Budget.

2. The Legislative Reorganization Act of 1946 attempted to weaken the Executive's control through the concept of the Legislative Budget.

3. The establishment of the Joint Economic Committee was clearly a move to lessen the impact of the President's Council of Economic Advisors, and provide a congressional vehicle for finding the "soft spots" in the President's budget.

4. Both the Omnibus Appropriation Act and the Joint Committee on the Budget had as its purpose that of limiting the power and control of the executive.

The Fiscal Act of 1970 and the Legislative Reorganization Act of 1970 each show promise of a movement away from the past reforms, and concentrate on the internal operations of Congress. The Fiscal Act would provide for a separate fiscal session to allow Congress sufficient time to consider and debate the fiscal policies proposed by the President, while the Legislative Reorganization Act concentrates mainly on congressional committee operations.

The need for this shift in the direction of the reform movement was expressed in 1966 by Theodore C. Sorensen in the Saturday Review:

> As this country has become more urbanized, industrialized, and internationalized, it has experienced a necessary increase in the role of the Executive. The fluidity and complexity of national problems require all the initiative and discretion the White House can properly be given. The answer to the present imbalance (of power) lies not in reducing its voice to the level of the Legislative Branch, but in strengthening the voice of the latter -- streamlining its procedures, elevating its debates, permitting its majorities to be felt, safeguarding its ethics and honor.[1]

It appears that this is the type of reform that the 1970 measures seek. Certainly Title II of the Legislative Reorganization Act does produce some shift in budgetary control to the Congress, but the emphasis of the Act is inward, toward the internal structure and operations of Congress.

When the internal structure of Congress is the object of reform, this presents another problem in itself. The chief obstacle in this type of reform is found in the House Appropriations Committee, a committee that seeks to retain its power and influence, not only

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[1]Theodore C. Sorensen, "Reforming Congress", Saturday Review, July 16, 1966, p. 22.

within the House, but relative to its postion over the Senate as well. Fenno has appraised this House-Senate struggle as follows:

> To the degree that House Committee members believe they now enjoy pre-eminence, they will oppose changes in the appropriations process which they perceive as increasing the relative influence of the Senate.[1]

Each of the reforms attempted by Congress has had some measure of effectiveness, either directly or indirectly. Certainly the major reforms of 1921 and 1946 had direct effect on the Executive and served to strengthen the Legislative Branch. The effectiveness of the Legislative Reorganization Act of 1970 remains to be determined, yet the ultimate recoupment of fiscal control by Congress under this measure depends on how closely the provisions of the Act are followed.

Since the Civil War, Congress has been in a position of having to catch up with the executive -- to impose double-bladed legislation designed to check the Administration and further the cause of Congress. This was the situation when the Joint Economic Committee was established in 1946, but this counter-balancing committee appears to be one of the most effective products of reform that Congress has implemented.

In the absence of essential institutional changes, the future strengthening of the congressional role in setting fiscal policy seems to depend upon its ability to analyze the President's fiscal proposals and generate alternatives for those it finds unacceptable. This has become the most important function of the JEC, a function that it

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[1]The Power of the Purse, p. 628 - 629.

performs consistently well. But while the Joint Economic Committee is influential, it lacks the power of a legislative committee, and its effectiveness is somewhat diminished. Regardless, it generally serves as the congressional voice on economic policy matters and provides detailed information on the Administration's budget plans.

In appraising the effectiveness of the reforms that have been attempted by Congress, it is the observation of the writer that they have largely produced either neutral or negative results. Undoubtedly there were immediate, short-run benefits from most of the measures, but, viewing with hindsight, the gains were soon offset by continuing executive dominance. This cycle is likely to continue unless Congress can, through its collective leadership, successfully bridge and combine the power of the House and Senate.

It is because of this division of power and separate constituencies that Congress has been unable to compete with the executive, who has concentrated power and basically answers to the American people as a whole. It appears that the reforms attempted by Congress have generally failed to produce long-run gains because they were directed at checking the President rather than being directed at the causes of the loss of budgetary control.

Prospects for Reform

As this study shows, Congress has been inclined to seek reforms since the early 1900's. Such an attitude on the part of

Congress strengthens the probability of increasing its fiscal role, but the obstacles to meaningful reform must be overcome if reforms are to result in a permanent increase in budgetary influence and control.

Responding to ever increasing executive initiative, Congress has produced many reform measures, only two of which concentrated on its internal problems. Yet, it is this type of problem to which Congress must address itself if it is to effect a favorable, permanent shift of budgetary control. The key obstacle to successful fiscal reform is found in Congress itself. The House Appropriations Committee now enjoys unparalleled prominence in Congress, and any proposal which seeks to reduce its control over federal spending is assured of death in committee. Congress, then, bears the responsibility for failure to develop an enlarged budgetary role, for only Congress can change its procedures and operations. The Legislative Reorganization Act of 1970 made minor, if not insignificant, procedural changes, but failed to touch the heart of the problem. If Congress reasonably expects to regain budgetary control and assume a more prominent role in formulating national fiscal policy, it must significantly alter its internal structure.

This restructuring process will not, however, ensure Congress of the role it seeks. In the word of Saloma:

> . . . it should be clear that any reforms that are introduced will only be as effective as the Congress makes them. Revising the congressional calendar, creating a new joint coordinating committee, providing Congress the necessary staff and information to make intelligent judgments on the budget, etc., will not in themselves give Congress the

> effective role it seeks. The basic limitation is one of self-education and self-discipline.[1]

The drive for budgetary reforms has, in all probability, been satisfied by the modest changes made by the 1970 Reorganization Act. The Senate is likely to continue its efforts to legislate reforms and the House is likely to avoid the issue. The centers of power in the House are not likely to approve those reforms that effectively redistribute its powers, and the chairmen of the House and Senate are certain to oppose a change in the seniority system. There is a movement, however, among the junior Congressmen to bring about reforms to the seniority system of selecting committee chairmen, but until this change occurs, prospects for meaningful reform are not encouraging.

Some reform measures will be offered during the Ninety-Second Congress. Senator Magnuson is again preparing a "fiscal year" bill and, according to the Senator's legislative staff assistant, the proposal will be submitted during the first session of the Ninety-Second Congress. Senator Magnuson reportedly has a total of forty-five co-sponsors for the bill, and the prospects for favorable Senate action is considered good.[2]

The prospects for positive Congressional action depends on the leadership in the House. In the past, House bills dealing with changing the fiscal year have remained in the Committee on Government Operations without hearings, and the chances that a Senate bill will

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[1]The Responsible Use of Power, p. 75.

[2]Samuel Spina, Legislative Staff Assistant for Senator Magnuson (D., Wash.), personal interview on March 15, 1970.

survive where a similar House bill did not are not very good. In all probability, when the House Appropriations Committee decides to support such a change, the House will favorably, and quickly, report it.

The Senate is likely to pursue procedural reforms that continue along the lines of the Legislative Reorganization Act of 1970. Senators Saxbe, Cranston, Schweiker, and Hughes have indicated that there was considerable agreement within the Senate supporting some procedural reforms. Included among the most significant of these measures to which the Senators refer are:

1. A set date (May 31 and July 31 have been suggested) after which the Senate would not consider authorization bills.

2. Beginning of Senate committee action on appropriations bills prior to House passage, including a tentative markup session on the bill by the Senate Appropriations Committee.

Congress has, in the past, been unable to initiate comprehensive budgetary studies or originate fiscal policy, yet the reforms attempted are directed at curbing these functions given to the executive. The question naturally arises whether the pendulum of power will eventually swing back to Congress, and such a question is impossible to answer. However, in the short-term view, it appears to the writer that the executive will continue to dominate in the area of budgetary control, and Congress, especially the Senate, will continue in its role as critic while modifying its procedures in anticipation of an enlarged budgetary role.

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